

STATE OF WISCONSIN

PERSONNEL COMMISSION

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BERNARD SCHERMETZLER,
 Appellant,

v.

Secretary, DEPARTMENT OF
 EMPLOYMENT RELATIONS,
 Respondent.

Case No. 94-0342-PC

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DECISION
AND
ORDER

This is an appeal of a decision by respondent to reallocate appellant's position to the Archivist-Senior classification rather than the Administrative Officer 1 classification. A hearing was held on January 19, 1995, before Laurie R. McCallum, Chairperson. The parties were permitted to file post-hearing briefs and the briefing schedule was completed on February 23, 1995.

The duties and responsibilities of appellant's position are accurately described in a position description signed by appellant on June 29, 1994, and may be summarized as follows:

25% A. Manages the iconography and memorabilia collections, and expands the museum and exhibit functions of the University of Wisconsin-Madison Archives. This includes establishing and implementing program budget, program policies, and operational procedures; arranging for and/or carrying out conservation and restoration procedures; recruiting, appraising, acquiring, and accessioning additions to the collection; responding to research requests and arranging for the publication and use of collection materials on A national and international basis; arranging and cataloguing additions to the collection, and developing and maintaining computer databases; designing and managing facilities to house the collection; planning, constructing, and presenting collection exhibits; and supervising LTE and student employees.

25% B. Manages Archives' facility in B110 Steenbock Library. This includes providing records retrieval services for UW-Madison administration; providing reference services to researchers and the public; preparing and maintaining

inventory of holdings; participating in the reappraising and deaccessioning of collection to respond to space demands; developing and accessioning collection; and supervising LTE and student employees.

20% C. Develops archival and manuscript collections of the administrative and academic sectors of the UW-Madison, UW-System Administration and Board of Regents, UW-Center System, and UW-Extension, including recruiting, appraising, transferring, accessioning, processing, preserving, and managing the collection.

20% D. Responds to complex reference and retrieval requests originating from the UW administrative and academic sectors, and from researchers and the public. This includes developing and implementing reference and retrieval policies and procedures, maintaining detailed records of reference/retrieval transactions, and supervising LTE and student employees.

10% E. Serves as Administrative Assistant to Director of Archives. This includes assisting in the establishment and implementation of Archives policies and procedures; planning and managing Archives' operating budget; coordinating reference/retrieval activities in the Archives' other facilities--the Steenbock Library, the Oral History Project Office, and the Records Storage Center--with operations in the Main Office at B134 memorial Library; and soliciting and securing outside funding for special projects.

The "Inclusions" section of the classification specification for the Archivist series states as follows:

This series encompasses positions which perform professional archivist work. Positions allocated to this series are responsible for functions such as acquisition, appraisal, arrangement, description, documentation, presentation, records management, and/or reference of archival materials.

The "Definition" section of the classification specification for the Archivist-Senior classification states as follows:

This is the senior level for positions performing archival work of greater scope, complexity and impact than at the senior (sic) level. It is usually characterized by responsibility for the day-to-day operation of a stand-alone archives or as a major resource person in a specialty area. Positions at this level are responsible for the development and management of: multi-subject programs such as managing the Steenbock Annex at the UW-Madison; significant collections of specialized materials such as iconographic or electronic records; or specialized functions such as records management or reference services at the State Historical Society. Activities performed include developing

policies and procedures; planning and implementing collection development and acquisition on an agency-wide or multi-agency-wide-basis; or devising and implementing methodologies for accession, arrangement, description, documentation, preservation, or use. Advanced specialization in a program area with expertise recognition at the state or national level is typical. The work is performed under general supervision.

The classification specification for the Administrative Officer 1 classification states as follows, in pertinent part:

This is responsible and difficult administrative and/or advanced staff assistance work in a major state agency. Employees in this class are responsible for directing important phases of the department's program and/or for providing staff services in a variety of management areas. Work may involve assisting in the formulation of the agency's policies, the preparation of the budget, responsibility for fiscal management, physical plant, operating procedures, personnel and other management functions. Employees supervise a staff of technical and/or professional assistants and have a wide latitude for planning and decision making guided by laws, rules and departmental policy. Direction received is of a broad and general nature and the work is reviewed by administrative superiors through reports and conferences.

Examples of Work Performed

Acts as principle staff advisor to department director on matters of administrative management, legislative proposals, program development, program effectiveness and related matters.

Directs departmental administrative services, including budgeting, fiscal management, purchasing, personnel management and property management.

Assumes responsibility for determining need and seeing that difficult and complex studies or surveys to improve administrative management are carried out, such as time and motion, space and equipment utilization, cost accounting, etc.

Acts as departmental representative in difficult and potentially controversial contacts with representatives of other organizations, legislative officials, and the general public.

The duties and responsibilities of appellant's position are well-described by the language of the Archivist-Senior classification specification except as they specifically relate to the State Historical Society, and appellant acknowledges this. Due to the variety of senior-level duties and responsibilities assigned to appellant's position, it appears to be a stronger position from a classification standpoint than the State Historical Society

Archivist-Senior positions offered for comparison purposes. However, this is not unusual given the fact that any one classification can include a range of positions, and this factor alone would not be a sufficient basis upon which to conclude that appellant's position is not appropriately classified at the Archivist-Senior level. In addition, the Archivist-Senior classification specifications make it clear that both positions which are responsible for the development and management of multi-subject programs such as appellant's, and positions which perform specialized functions such as records management or reference services at the State Historical Society, are included within the scope of the classification.

Appellant points to an Administrative Officer 1 position within the UW-Madison Archives which is responsible for records management for the Archives, and argues that this position is comparable to his. However, the only evidence in the record relating to this position is general testimony from appellant and from J. Frank Cook, Director of the UW-Madison Archives, as to the respective responsibilities of this AO 1 position and appellant's position in relation to UW records maintained by the Archives. Without more specific testimony, and/or a position description or other relevant documentary evidence in the record, it is not possible to compare the duties and responsibilities of these two positions in the context of a classification determination.

Although the AO 1 classification specifications generally describe some of the duties and responsibilities of appellant's position, the more specific and directly applicable description contained in the Archivist-Senior classification specifications leads to the conclusions that the Archivist-Senior specifications provides a better fit for appellant's position and that appellant's position is more appropriately classified at the Archivist-Senior level. Appellant argues that the policy development, procedure development, budget, and coordination functions of his position are not performed by Archivist-Senior-level positions nor recognized by the Archivist-Senior classification specifications. However, the Archivist-Senior specifications specifically refer to "developing policies and procedures," and "development and management of multi-subject programs," i.e., these specifications specifically describe policy and procedure development responsibilities, and the primary type of budget and coordination functions performed by appellant's position (other than those related to his administrative assistant functions for the Director of the

Archives which consume a very small percentage of appellant's time) are necessarily contemplated by reference to the development and management of multi-subject programs. The conclusion that appellant's position is more appropriately classified at the Archivist-Senior level is buttressed by the evidence in the record that the Archivist-Senior specifications were drafted with appellant's position in mind, as evidenced by reference in the specifications to positions which develop and manage multi-subject programs such as "managing the Steenbock Annex at the UW Madison."

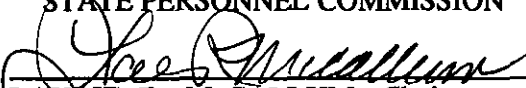
Much of the thrust of appellant's letter of appeal to the Commission and some of the argument offered by appellant as part of the hearing process center on the failure of respondent, in conducting the relevant personnel management survey, to create enough levels within the Archivist series to provide for a differentiation between the highest level positions such as appellant's and other senior-level positions. However, it is well-settled that the Commission does not have the authority to create classifications or to revise classification specifications or to order DER to do so, and this argument is therefore not relevant to the issue before the Commission.

Order

The action of respondent is affirmed and this appeal is dismissed.

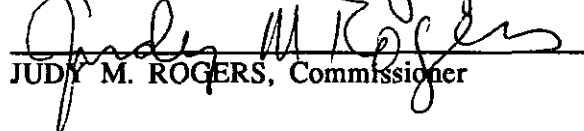
Dated: April 17, 1997⁵

STATE PERSONNEL COMMISSION


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LRM:lrn


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

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NOTICE
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

Petition for Rehearing. Any person aggrieved by a final order (except an order arising from an arbitration conducted pursuant to §230.44(4)(bm), Wis. Stats.) may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)

2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats. 2/3/95